

United States Bankruptcy Court
SOUTHERN DISTRICT OF NEW YORK
MANHATTAN DIVISION

In re:

RESIDENTIAL CAPITAL, LLC et al.

DEBTORS.

Address:

Residential Capital, LLC

1177 Avenue of the Americas

New York, NY 10036

NEW YORK-NY

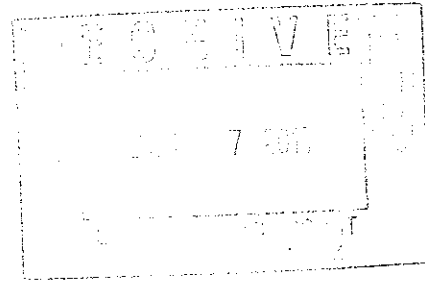
Tax ID / EIN: 20-1770738

aka Residential Capital Corporation

Case No. 12-12020-MG

Chapter 11

Jointly Administered



**NOTICE OF MOTION FOR LEAVE TO FILE PROOF OF CLAIM OUT OF TIME AND
MOTION TO ALLOW CLAIMANT TO CONTINUE TO LITIGATE DEBTOR IN THE
DISTRICT COURT FOR NONDISCHARGEABILITY DETERMINATION**

**To the Honorable United States Bankruptcy Court Judge for the Southern District
of New York Manhattan Division:**

Notice is hereby given that claimant Lolina Porter, pro se, hereby respectfully and
humbly appeals to and move the United States Bankruptcy Court for the Southern District
of New York Manhattan Division from the Order entered February 11, 2016 (ECF Doc.
#9618).

1 In conformity with the Official Bankruptcy Form 420A (Notice of Motion or
2 Objection) (12/16), claimant submits the following:

3
4 **I. BACKGROUND**

5 In October 2010, the claimant Porter's filed civil action as Pro Se Plaintiff
6 against GMAC at the Chancery Court of Shelby County, Tennessee For the
7 Thirtieth Judicial District at Memphis is meritorious. Please find attached copy of
8 Porter's First Civil Complaint against GMAC, et.al. (**EXHIBIT I**).
9

10 Claimant filed for the following actions in her October 2010 Civil Complaint:

- 11 a. Complaint and Emergency Motion to Set Aside Foreclosure Judgment and
12 Sale of Real Property (**Motion Granted**)
13
14 b. Motion for Permanent Injunctive Relief Barring Future Sale of Real Property
15 by Defendants (**Motion Granted**, but right after Aurora managed to get out
16 of the subject civil case while Plaintiff was not able to reply to object to any
17 of Aurora's motions because **Claimant Porter/Plaintiff's daughter got**
18 **kidnapped on December 16, 2010** and she focused on being available for
19 saving and restoring the life of her 9 year old daughter from severe PTSD
20 and suicidal tendency, while GMAC in 2012 has filed for Chapter 11
21 Bankruptcy).
22
23 c. Motion for Plaintiff's Award for Punitive Damages Including Legal and
24 Equitable Relief (Pending due to GMAC's Chapter 11 Bankruptcy).
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1 Claimant's intent was to be heard and be given the due process of law after
2 an **alleged mortgage fraud by GMAC's Homecomings Financials LLC** in
3 **enforcing a subprime loan** on her application, **declared and/or stated** their
4 desired sugar coated income other than what the Claimant provided as her
5 paystub and income tax returns factual numbers. **GMAC's Homecomings**
6 **Financials enforcing to include a Private Mortgage Insurance** through
7 **Genworth Insurance** as part of Claimant's responsibility to pay based on the
8 standard "sub-prime" lending rules when borrowers only paid 10% of the sale price
9 towards down payment. **Claimant alleged that lenders conspired with private**
10 **mortgage insurance ("PMI") providers on a sub-prime variable rate loans,**
11 **that when rates go up and borrowers struggles, that the lenders rather opt to**
12 **hurry up in foreclosing the home** by creating various scenarios where the
13 borrowers are **setup to get denied for a Loan Modification** so that the mortgage
14 **banks can cash in from the private mortgage insurance, hold the property and**
15 **sell it at a bargain for more cash to them.**

16
17
18
19 GMAC Homecomings transferred only the servicing of the subject property
20 to Aurora Loan Services LLC, an alleged concerted effort by GMAC. Wherein all
21 the aggravation of a faulty loan workout happened during the time when **Porter's**
22 **husband has suffered from ischemic stroke on July 10, 2009** and was in and
23 out of the hospital from July 2009 through mid part of 2012.

24
25 Claimant's intent was to be heard and be given the due process of law after
26 losing her investment property (her livelihood) to an **alleged wrongful foreclosure**
27 **of GMAC's new Servicer, the Aurora Loan Services. Subject property was**
28

1 **foreclosed in or around February 4, 2010.** According to Aurora Loan Services,
2 Claimant's application for a Loan Modification is "**dependent upon the investors**"
3 Claimant believes that this is an obvious scheme just to milk the real estate market
4 and did not care about the Citizens of America who were trying their best to make
5 a living in an honest way, even though the previous US President Barack Obama
6 has declared HOPE Now to help homeowners, Claimant alleged that banks like
7 GMAC and Aurora has continued on this concerted effort to milk the real estate
8 industry.
9

10 After foreclosure **Aurora Loan Services LLC bought the property** as they
11 **claim to have the highest bid**, however, after owning it, **GMAC or Aurora Loan**
12 **Services or GMAC Homecomings LLC** is alleged to have claimed against the
13 PMI through Genworth Insurance (a Private Mortgage Insurance company) for
14 them to get paid for the money equivalent to the Loan Amount the Claimant has
15 borrowed to purchase this subject property, so it is alleged that they got paid, yet
16 they owned the property that they are itchy to sell for more money to them.
17
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19 Claimant alleged that this may be accomplished through a secretive "pay-to-
20 play scheme" that utilized carefully crafted "excess-of-loss" or purported "quota-
21 share" that were intentionally designed to insulate the lender and when the banks
22 intentionally abused the system for their gain, many Citizens of America including
23 herself loses homes left and right to foreclosure even though the borrowers have
24 tried so hard to apply for a Loan Modification.
25

26 At the expense of the borrowers Claimant alleged that these banks has
27 earned a lot of money through wrongfully foreclosing on the homes with PMIs,
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1 collecting from insurance, then reselling the foreclosed property at a lower price so
2 that buyer comes quick and the money goes to the banks' pocket quicker too.

3 The Chancery Court has scheduled an initial hearing in early part of
4 November 2010 which Porter planned and attended with hopes of being heard and
5 be given due process of law. However, after spending for a plane ticket for a trip
6 from CA to TN to be on time for the hearing, Porter was disappointed when the
7 Judge called for the presence of any of the defendants but none of them came nor
8 advised the court of their planned absence in advance to the initial hearing. The
9 judge has rescheduled for the continuance of the hearing set in January 2011,
10 however on November 29, 2010 defendants removed this case from the Chancery
11 Ocourt to the United States District Court for the Western District of Tennessee.
12

13
14 In or around the week of September 22, 2017, Claimant Porter received a
15 First Class Mail from GMAC's Legal Counsel for Civil Case named Bradley Arant
16 Boulton Cummings LLP of Nashville, Tennessee with a Stamp Post Dated
17 September 14, 2017 (Copy Proof of Envelope is attached as **EXHIBIT II**). In this
18 mail was the GMAC's Motion to Enforce Bankruptcy Order to the United States
19 District Court For the Western District of Tennessee regarding the Case# 2:10-cv-
20 2858.
21

22 In this mail enclosed another set of stapled document, it was the printed
23 copy from PACER of the United States Bankruptcy Court Southern District of New
24 York Judge Martin Glenn's "**Order Granting ResCap Liquidating Trust's**
25 **Omnibus Motion to Enforce Injunctive Provisions of Plan and Confirmation**
26 **Order**" (**EXHIBIT III**) recorded on **February 11, 2016**. Claimant Porter have
27
28

1 noticed the Annex A – Litigation Parties wherein in the List on Row#7 is the
2 claimant's name "Lolina Porter", in the list are several columns of which is the
3 "Letter Sent Pursuant to Procedures Order" and on the Claimant's row#7 it states
4 that this **Order was sent on June 30, 2015 and also on November 19, 2015**,
5 hence on the respective column "Applicability of Plan Injunction Provisions", on
6 Claimants row#7 it states that **"The party did not file a timely proof of claim"**.
7

8 The Claimant is not disputing the facts stated in the Litigation Parties list,
9 however, **Claimant Porter has not received herself, nor opened an envelope**
10 **containing the "Order Granting ResCap Liquidating Trust's Omnibus Motion**
11 **to Enforce Injunctive Provisions of Plan and Confirmation Order" prior to in**
12 **or around the week of September 22, 2017.**
13

14 On October 17, 2017, Claimant Porter received a Show Cause Hearing
15 scheduled for October 26, 2017 from the United States District Court For the
16 Western District of Tennessee Western Division set before Chief Magistrate Judge
17 Diane K. Vescovo for the civil case involving Porter and GMAC et al. Claimant
18 Porter prepared **her Plaintiff's Response to the Order to Show Cause Hearing**
19 **and Petition for Continuance**, personally attended the October 26, 2017 hearing
20 and hand delivered this document to the Clerk of the Chief Magistrate Judge prior
21 to the start of the Show Cause hearing. Copy of the aforementioned document is
22 attached as **(EXHIBIT 3)**.
23
24

25 II. CONCLUSION

26 Since the United States Bankruptcy Court for the Southern District of New
27 York Manhattan Division has jurisdiction over GMAC's Chapter 11 Bankruptcy
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1 pursuant to 28 U.S.C. § 158(a)(1), and Pursuant to Bankruptcy Rule 3003(c)(3)
2 "Time For Filing", **Claimant humbly request the honorable Judge for your**
3 **consideration to allow for her to File Proof of Claim Out of Time** using the
4 **"excusable neglect"** standard (See Pioneer Investment Services Company
5 vs. Brunswick Associates, LP, 507 U.S. 380 (1993)).
6

7 Claimant also has researched about the possibility of this debt to be one of
8 debts to be categorized by this court as **"Nondischargeable"** if it is proven on
9 trial that GMAC on behalf of Homecomings Financial entity has indeed
10 committed **Mortgage Fraud** See *United States v. Wells Fargo Bank, N.A., et.*
11 *al., 12-cv-7527 (S.D.N.Y.), United States v Guild Mortgage Company.*
12

13 Hence, it is the Claimant's hope that this honorable Bankruptcy Court grant
14 the Claimant to continue to litigate GMAC at the United States District Court.

15 It is also the Claimant's hope that this honorable Bankruptcy Court bars
16 GMAC (as the debtor) to enforce Bankruptcy Order on Claimant while litigation
17 on this matter continues.
18

19 At present, the subject property of the civil case disputed located at 6131
20 Woodstock View Dr. Millington, TN 38053 is hereby reported by Claimant that
21 the roof is broken and falling apart, it has no electricity and the current owner
22 has not paid its Yard Maintenance HOA dues as specified in the HOA Rules
23 given by the Townhouse Developers when all homeowners bought from them.
24

25 **III. WHEREFORE, PREMISES CONSIDERED, CLAIMANT PRAYS:**

- 26 1) For this Honorable Bankruptcy Court to forgive the Claimant, for she has no
27 intentions of disrespecting the bankruptcy court rules and expectations as the
28

1 Claimant had a family emergency when her 9 year daughter who got kidnapped, was
2 retrieved by the police but was ruined and was endangering her life, that the
3 Claimant had to drop everything including working fulltime as a Software Engineer
4 just to help her daughter cope with the life she now has to live after kidnapping.
5

6 2) For this Honorable Bankruptcy Court to acknowledge my statement that only in or
7 around September 22, 2017 is when the Claimant first received and read the Order
8 Granting ResCap Liquidating Trust's Omnibus Motion To Enforce Injunctive
9 Provisions of Plan and Confirmation Order with the List of Litigation Parties.
10 However, the Claimant is not disputing the dates GMAC claimed to have sent the
11 same document to her mailing address.
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13
14 3) For this Honorable Bankruptcy Court to allow the Claimant to learn if US Bankruptcy
15 Law was created also to protect, and relieve an entity such as GMAC from being
16 punished for "imposing unfair and abusive loan terms on borrowers" or "predatory
17 lending", and that they can walk away without being responsible for the wrong
18 actions made by them which caused a lot of family in distressed, felt violated, and
19 deceived for the Defendant's greater gain.
20

21 4) For this Honorable Bankruptcy Court to order GMAC to pay Compensatory Damages
22 to Claimant, which are intended to restore what Claimant has lost as a result of
23 GMAC's wrongful conduct in foreclosing the property that is part of her livelihood.
24

25 5) For this Honorable Bankruptcy Court to order GMAC to pay the Loss of Rents from
26 the time they foreclosed the subject property until the civil case in the District Court is
27 settled.
28

- 1 6) For this Honorable Bankruptcy Court to order GMAC to pay the Plaintiff all PMI
2 premiums that they have collected for the Private Mortgage Insurance that Plaintiff
3 was paying per month since the Loan Origination with Homecomings
4 Financials/GMAC with reasonable interest based on each year's prevailing rate since
5 that payment started until the civil case in the District Court is settled
6
- 7 7) For this Honorable Bankruptcy Court to order GMAC to pay all monies, down
8 payments, mortgage payments, interest and all monies received by Homecomings
9 Financials, and Aurora Loan Services from the Claimant from the Loan Origination
10 time until Aurora Loan Services, LLC foreclosed the subject property on behalf of
11 Homecomings Financials/GMAC with reasonable interest until this case is settled.
12
- 13 8) For this Honorable Bankruptcy Court to order GMAC to Quiet Title the alleged
14 Wrongfully Foreclosed Property located at 6131 Woodstock View Dr. Millington, TN
15 38053 back to the Claimant free and clear since Claimant was the one who paid all
16 the premiums for the Private Mortgage Insurance where GMAC and its servicer
17 Aurora Loan Services LLS (who no longer exist to this day as a company) is the one
18 who benefited from the Claimant's paid premium Private Mortgage Insurance. This is
19 so that Claimant can maintain the house and repair it back to where it will not be an
20 empty, dilapidated structure where possible drug users may use as their hideout and
21 to protect the surrounding community.
22
- 23 9) For this Honorable Bankruptcy Court to grant Claimant Leave to File Proof of Claim
24 Out of Time.
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1 10) For this Honorable Bankruptcy Court to grant Claimant to Continue to Litigate Debtor
2 as Defendant in the civil case filed prior to the Debtor Filing its Chapter 11
3 Bankruptcy in the US District Court for further determination if the Porter's claims
4 against the debtor is a "dischargeable debt" or "non-dischargeable debt" pursuant to
5 11 U.S.C. § 523(c); Fed. R. Bankr. P. 4007(c).
6

7 11) For this Honorable Bankruptcy Court to schedule a hearing if necessary that the
8 Claimant may be able to explain her position.
9

10 12) For such further and other relief as to which the Claimant may be entitled that this
11 Honorable Bankruptcy Court may judge appropriately.
12

13 So help the truth to prevail God.

14
15 **RESPECTFULLY SUBMITTED: This ^{5th} ~~4th~~ day of December in the year, 2017 .**

16
17
18
19
20 BY:  _____,

21 **LOLINA PORTER, pro se**
22 **Claimant**

23 832 Monterey Rd.

24 Glendale, CA 91206

25 Telephone(Landline): (901)-347-0372

26 Telephone(Mobile) : (818)-571-9092
27
28

1 STATE OF NEW YORK ⁶CALIFORNIA

2
3 ^{LOS ANGELES}
COUNTY OF NEW YORK

4
5 I, Lolina Porter, hereby state under oath that the facts and allegations of the
6 complaint filed herein, and the facts and matters set forth are true and correct to the best of
7 my knowledge, information, and belief, and that I am justly entitled to the relief sought.

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LOLINA PORTER

12 Sworn and subscribed to before me this the 5 day of December, 2017.



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Notary Public

Certificate of Service

**Notice of Motion for Leave to File Proof of Claim Out of Time
and Motion to Allow Claimant to Continue to Litigate Debtor in
the District Court for NonDischargeability Determination**

Claimant:

Lolina Porter

832 Monterey Rd.

Glendale, CA 91206

(818)-571-9092

Email: arthinker@yahoo.com

To be delivered to:

US Bankruptcy Court

Southern District of New York

One Bowling Green

New York, NY 10004-1408

Via United Parcel Service

Additionally, the undersigned certifies that he caused a true and correct copy of the foregoing Notice to be sent via email and/or USPS on December 5, 2017 to the following parties:

represented by Jessica G. Berman
Email: jberman@msek.com

Donald H. Cram
Severson & Werson, PC
One Embarcadero Center
Suite 2600
San Francisco, CA 94111
415-398-3344
Fax : 415-956-0439
Email: dcram@severson.com

Stefan W. Engelhardt
Morrison & Foerster LLP
1290 Avenue of the Americas
New York, NY 10104
212-468-8000
Email: sengelhardt@mofo.com

George M. Geeslin
Eight Piedmont Center, Suite 550
3525 Piedmont Road, N.E.
Atlanta, GA 30305-1565
(404) 841-3464
Fax : (404) 816-1108

1		Email: geeslingm@aol.com
2	Bonnie R. Golub	Todd M. Goren
3	Weir & Partners, LLP	Morrison & Foerster LLP
4	The Widener Bldg., Suite 500	250 W. 55th Street
5	1399 Chestnut Street	New York, NY 10019
6	Philadelphia, PA 19107	(212) 336-4325
7	(215) 665-8181	Fax : (212) 468-7900
8	Fax : (215) 665-8464	Email: tgoren@mofo.com
9	Email: bgolub@weirpartners.com	
10	Joel C Haims	Gary S. Lee
11	Morrison & Foerster LLP	Morrison & Foerster LLP
12	250 W 55th Street	1290 Avenue of the Americas
13	New York, NY 10019	40th Floor
14	(212)468-8238	New York, NY 10022
15	Fax : (212)468-7900	(212) 468-8042
16	Email: JHaims@mofo.com	Fax : (212) 468-7900
17		Email: glee@mofo.com
18	Lorenzo Marinuzzi	Larren M. Nashelsky
19	Morrison & Foerster LLP	Morrison & Foerster LLP
20	250 West 55th Street	1290 Avenue of the Americas
21	New York, NY 10019-9601	New York, NY 10104
22	(212) 468-8045	212-468-8000
23	Fax : (212) 468-7900	Fax : 212-468-7900
24	Email: lmarinuzzi@mofo.com	Email: lnashelsky@mofo.com
25	Bradley Arant Boult Cummings LLP	Anthony Princi
26	One Federal Place	Morrison & Foerster
27	1819 Fifth Avenue North	1290 Avenue of the Americas
28	Birmingham, AL 35203	New York, NY 10104
	205-521-8000	(212)468-8030
	Email: jsmitht@babco.com	Fax : (212)468-7900
		Email: aprinci@mofo.com
	Steven J. Reisman	Norman Scott Rosenbaum
	Curtis, Mallet-Prevost, Colt & Mosle	Morrison & Foerster LLP
	LLP	250 West 55th Street
	101 Park Avenue	New York, NY 10019
	New York, NY 10178	(212) 506-7341
	212-696-6065	Fax : (212) 468-7900
	Fax : (212) 697-1559	Email: nrosenbaum@mofo.com

1	Email: sreisman@curtis.com	
2	John W Smith T	Kayvan B. Sadeghi
3	U.S. Trustee	Morrison & Foerster LLP
4	United States Trustee	250 West 55th Street
5	Office of the United States Trustee	New York, NY 10019-9601
6	U.S. Federal Office Building	212-468-8000
7	201 Varick Street, Room 1006	Fax : 212-468-7900
8	New York, NY 10014	Email: ksadeghi@mofo.com
9	(212) 510-0500	
10	represented by Andrew D. Velez-	Claims and Noticing Agent
11	Rivera	Kurtzman Carson Consultants LLC,
12	Office of the U.S. Trustee	Claims Agent
13	33 Whitehall Street	Attn: James Le
14	21st. Floor	2335 Alaska Avenue
15	New York, NY 10004	El Segundo, CA 90245
16	(212) 510-0500	www.kccllc.com
17	Fax : (212) 668-2255	310-823-9000
18	Creditor Committee	Robert J. Feinstein
19	Official Committee Of Unsecured	Pachulski Stang Ziehl & Jones LLP
20	Creditors	780 Third Avenue
21	represented by Kenneth H. Eckstein	34th Floor
22	Kramer Levin Naftalis & Frankel LLP	New York, NY 10017-2024
23	1177 Avenue of the Americas	(212) 561-7700
24	New York, NY 10036	Fax : (212) 561-7777
25	(212) 715-9100	Email: rfeinstein@pszyj.com
26	Fax : (212) 715-8000	
27	Email: keckstein@kramerlevin.com	
28	Ronald J. Friedman	Douglas Mannal
	SilvermanAcampora LLP	Kramer Levin Naftalis & Frankel LLP
	100 Jericho Quadrangle	1177 Avenue of the Americas
	Suite 300	New York, NY 10036
	Jericho, NY 11753	(212) 715-9313
	(516) 479-6300	Fax : (212) 715-8000
	Fax : (516) 479-6301	Email: dmannel@kramerlevin.com
	Email: filings@spallp.com	
	Robert D. Nosek	Steven S. Sparling
	Certilman Balin Adler & Hyman, LLP	Kramer Levin Naftalis & Frankel, LLP
	90 Merrick Avenue	1177 Avenue of the Americas

1 East Meadow, NY 11554	New York, NY 10036
2 516-296-7000	(212) 715-7736
3 Email: rnosek@certilmanbalin.com	Fax : (212) 715-8000
	Email: ssparling@kramerlevin.com
4 Creditor Committee	Stephen Zide
5 Official Committee of Unsecured	Kramer Levin Naftalis and Frankel,
6 Creditors of Residential Capital,	LLP
7 LLC, et al.	1177 Avenue of the Americas
8 represented by Robert J. Feinstein	New York, NY 10036
9 (See above for address)	(212) 715-9100
	Fax : (212) 715-8000
	Email: szide@kramerlevin.com
10 Creditor Committee	Creditor Committee
11 Pachulski Stang Ziehl & Jones	Pachulski Stang Ziehl & Jones
12 LLP, Co-Counsel for the Official	LLP, Co-Counsel for the Official
13 Committee of Unsecured Creditors	Committee of Unsecured
14 represented by Robert J. Feinstein	Creditors represented by Robert J.
15 (See above for address)	Feinstein
	(See above for address)